

**IN THE OFFICE OF THE STATE ENGINEER  
OF THE STATE OF NEVADA**

IN THE MATTER OF AN APPLICATION     )  
FOR A WELL-DRILLING LICENSE         )  
FILED BY DANIEL D. LEACH.            )

**RULING**

**# 5310**

**GENERAL**

On July 7, 2003, Daniel D. Leach filed an Application for a Well-Drilling License in the Office of the State Engineer. This is the second Application for a Well-Drilling License filed by Mr. Leach since his original Well Driller License No. 1876 was revoked on February 12, 2002.

**FINDINGS OF FACT**

**I.**

Nevada Well Driller License No. 1876 was issued April 26, 1993, to Daniel D. Leach and was annually renewed through June 30, 2002. Subsequent to the filing of a complaint and after investigation, an administrative hearing was held on November 7, 2001, before a representative of the State Engineer and the Statewide Well Drillers' Advisory Board (Board) to determine whether Daniel D. Leach had complied with the regulation regarding the completion of a domestic water well drilled for himself on a property located in Silver Springs, Nevada. Well Driller's Log No. 69178 was timely filed with the Office of the State Engineer on October 21, 1997, for this domestic water well, and the well log reported the depth drilled as 420 feet and the depth cased as 420 feet. The complainant, Virginia and Patrick McCuin, later acquired this well and property. On August 24, 2001, a down-hole video camera inspection of the well found that the domestic well was drilled to 416 feet but that it was cased only to 232 feet below ground surface.<sup>1</sup> At the administrative hearing, Mr. Leach admitted that he did not case the well to the total depth as required by regulation, admitted to intentionally making a misstatement on the well log, and to falsely swearing on the well log as to the work performed on the well. At the conclusion of the administrative hearing on November 7, 2001, the Board recommended to the State Engineer that Daniel D. Leach's Nevada Well Driller's License No. 1876 be revoked because of the following Findings of Violation of the regulation:

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<sup>1</sup> Well Driller License File No. 1876, Well Log No. 69178, the videotape, complaint and investigation are all public records in the Office of the State Engineer.

1. Failed to case the well to the total depth drilled, a violation of Nevada Administrative Code (NAC) § 534.360 (1) and Nevada Revised Statute (NRS) § 534.060 (1).
2. Intentionally made a material misstatement of facts in a log or record of work, a violation of NAC § 534.290 (1) (b).
3. Falsely sworn to any log filed with the Division of Water Resources, a violation of NAC § 534.290 (1) (g).
4. Supplied false information to a well owner, a violation of NAC § 534.290 (1) (h).

As provided in NRS § 534.160(3) and NAC § 534.290, the State Engineer revoked Nevada Well Driller License No. 1876, which was held by Daniel D. Leach, on February 12, 2002.<sup>2</sup>

## II.

Daniel D. Leach filed a new Application for Well Driller's License with the State Engineer on June 19, 2002. Nevada Administrative Code § 534.293 provides additional requirements for an applicant for a well-drilling license if a prior license has expired or had been revoked. A well driller whose license has been expired for more than one year or whose license has been revoked:

1. Must file a new application with the fee required by NRS § 534.140 to obtain a license.
2. Before resolving a complaint in his file, must appear before the Board for disposition of the complaint.
3. May be required by the Board to pass the examination required by NAC § 534.282.

Daniel D. Leach appeared for a well-drilling license examination before the Board on August 9, 2002. Mr. Leach scored 90% on Part I, the written part of the examination given to determine knowledge of the well drilling regulation. For Part II, he correctly located a point on a map and described that point as required on a Notice of Intent form. For Part III, the oral interview given by the Board, Mr. Leach gave very general and non-specific answers to the

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<sup>2</sup> Transcript of the administrative hearing held before the State Engineer on November 7, 2001, public record in the Office of the State Engineer. State Engineer Ruling No. 5099 dated February 12, 2002, public record in the Office of the State Engineer.

Board's questions. The Board determined that Mr. Leach did not pass Part III and recommended that he return and repeat Part III.<sup>3</sup>

### III.

Daniel D. Leach again appeared before the Board on November 7, 2002, to repeat Part III of the well-drilling examination. Again, Mr. Leach's answers to questions from the Board were very general and not very specific. The Board determined that Mr. Leach earned a minimal passing grade for Part III, even though his answers were weak and too general to show he has a good knowledge of general drilling practices. The Board then interviewed Mr. Leach about the complaint resulting in the revocation of his License No. 1876, and attempted to discuss with him the disposition of the complaint as required by NAC § 534.293 (2). Mr. Leach said that the complaint that caused revocation of his license was the subject of ongoing civil litigation, and that he had been advised by his lawyer not to discuss this matter. With regards to Daniel D. Leach's license application dated June 19, 2002, the Board determined that the complaint which caused the revocation of License No. 1876 had not been resolved and that Mr. Leach had failed to meet the requirements set forth under NAC § 534.293 (2). The Board recommended that the State Engineer refuse to reissue the Well Driller's License. The Board advised Mr. Leach that he could submit another Application for Well Driller's License after the complaints were settled and he was in compliance with NAC § 534.293 (2).<sup>4</sup> The State Engineer concurred with the recommendation of the Board and refused to reissue a well-drilling license to Daniel D. Leach on February 7, 2003.<sup>5</sup>

### IV.

On July 7, 2003, Daniel D. Leach filed another Application for a Well-Drilling License in the Office of the State Engineer. After agreement of all parties and legal counsel, arrangements were made to complete the original well with a liner casing in compliance with the minimum standards set forth in the well drilling regulation. By letter dated June 11, 2003, from counsel for Mr. Leach, the proposal to rectify the conditions that led to the original complaint included completing the well, flow testing the well and then plugging the well according to the well

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<sup>3</sup> Examination results and the transcript of the oral interview of August 9, 2002, public record in the Office of the State Engineer.

<sup>4</sup> Examination results and the transcript of the oral interview of November 7, 2002, public record in the Office of the State Engineer.

<sup>5</sup> State Engineer Ruling No. 5208 dated February 7, 2003, public record in the Office of the State Engineer.

drilling regulation. The original well had not been in use since the time it was discovered to have been improperly completed without casing to total depth, and the owner had been using a second well that had been constructed by another contractor since that time. The plugging was proposed since only one domestic well is allowed.<sup>6</sup> On June 16, 2003, Parsons Drilling Inc., a separate contractor, was engaged by Daniel D. Leach and Leach Drilling Inc., to complete the work and did in fact do so on that date. The original well was sounded for depth with various drilling tools and then a four and one half inch diameter liner casing was set to bottom at 417 feet below the top of the six inch steel casing already in place, 416 feet below surface. A representative of the State Engineer's Office was also on the location on June 16, 2003. The State Engineer finds that, as of the time the liner casing was set on that date, the Finding of Violation of the regulation solely related to the improper construction of the original domestic well was resolved.

#### V.

Mr. Leach was not required to take the well driller's examination for this most recently filed Application for a Well-Drilling License of July 7, 2003, but was required to be interviewed by the Board pursuant to NAC § 534.293 (2). He again appeared before the Board on August 22, 2003, and was interviewed regarding the disposition of the McCuin complaint. The Board members asked Mr. Leach a number of questions regarding the legality of leaving the second domestic well on the McCuin's property without a permit. Mr. Leach stated that due to ongoing civil litigation between the parties the well represented evidence in the matter and could not be plugged until a later date. Although the plugging was indeed planned in the proposal, the owner declined to plug the well after the flow testing. The State Engineer finds that due to these facts, the responsibility for plugging the well is ultimately the owner's, and the State Engineer will address the plugging with the owner after the civil matter has been resolved.

#### VI.

The Board expressed serious concerns about the other Findings of Violation that caused the original revocation of the Well Driller License No. 1876 and noted that the fact that Mr. Leach had lied and intentionally filed a false record was also grounds for the State Engineer to refuse to reissue a license under NAC § 534.290. The Board also expressed concern over

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<sup>6</sup> NRS §§ 534.013 and 534.180.

whether Mr. Leach was legally permitted to repair the original well. The State Engineer finds that staff approved of the proposal to repair and seal the well and was in fact on the location during the work. The Board then recommended that the State Engineer refuse to reissue the license until the matter between the well driller and the client over the original well is resolved.<sup>7</sup> The Board apparently believes that in order to consider Mr. Leach starting over with a clean slate, the civil litigation must first be settled. The State Engineer disagrees. The well construction issue was resolved as of June 16, 2003. The matter of multiple wells on the McCuin property is the responsibility of the property owner. The fact that Mr. Leach lied about the well construction and filed a false record of work has been dealt with in the revocation of the license on February 12, 2002. Mr. Leach has admitted wrongdoing and has been apologetic and regretted his actions. The State Engineer concurs with the recommendation of the Board in part and disagrees in part. The filing of a false record warrants additional disciplinary action.

### CONCLUSIONS

#### I.

The State Engineer has jurisdiction over the parties and the subject matter of this action and determination.<sup>8</sup>

#### II.

The Board expressed serious concerns about the other Findings of Violation that caused the original revocation of the Well Driller License No. 1876 and noted that the fact that Mr. Leach had lied and intentionally filed a false record was also grounds for the State Engineer to refuse to reissue a license under NAC § 534.290. The well construction issue was resolved as of June 16, 2003. The fact that Mr. Leach lied about the well construction and filed a false record of work remains a serious concern and has been dealt with in the revocation of the license on February 12, 2002. The State Engineer concurs with the recommendation of the Board in part and disagrees in part. The filing of a false record warrants continuation of disciplinary action.

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<sup>7</sup> The transcript of the oral interview of August 22, 2003 is public record in the Office of the State Engineer.

<sup>8</sup> NRS §§ 534.140 and 534.160.

**RULING**

The State Engineer refuses to reissue the license application of Daniel D. Leach for a total period of three years or until February 10, 2005, and Mr. Leach may reapply at that time.

Respectively submitted,

  
HUGH RICCI, P.E.  
State Engineer

HR/TKG/jm

Dated this 19th day  
of December, 2003.